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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/598,697	06/21/2000	David A. Glanzer	5319	7008

7590 10/02/2003
Dorsey & Whitney LLP
1001 Pennsylvania Avenue N W
300 South
Washington, DC 20004

EXAMINER

JEAN, FRANTZ B

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 10/02/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

PR24

Office Action Summary

Application No. 09/598,697		Applicant(s) GLANZER ET AL.	
Examiner Frantz B. Jean		Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 18-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-29 is/are allowed.
- 6) ☒ Claim(s) 1-15, 18-26 and 30-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

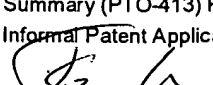
Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4-5</u> . | 6) <input type="checkbox"/> Other:  |

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DETAILED ACTION

1. This office action is in response to application filed on 06/21/2000 in which claims 1-15 and 18-32 are presented for examination.

Specification

2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Drawings

3. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Objections

4. Claim 10 is objected to because of the following informalities: on line 9 "said a system time clock" must read --said system time clock--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1, 7-10, 13, 21, 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Doolan US patent No. 5,764,955. (Applicants' IDS).

7. As per claims 1, 21, Doolan teaches an apparatus in a distributed control system (fig 5), comprising: a first network interface for communicating with a first network having a communication protocol stack (see fig 5 col. 14 lines 39 et seq); and a device access agent which emulates mapping of an access sublayer of at least one legacy format service of said distributed control system to one or more network format messages compatible with said communication stack using a common access interface (fig 5; col. 11 line 65 to col. 14 line 65 of the specification).

8. As per claim 7-10, 13, 23, Doolan teaches a network management information base for storing information; a network management base local interface; a system management base

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information for storing system configuration information; a system management information base local interface and a system management kernel (see Doolan abstract; col. 11 lines 15 et seq).

9. As per claims 14-15 Doolan teaches a second network interface for communicating with a second network using at least one legacy format service message (see Doolan col. 2 line 28 to col. 4 line 65).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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11. Claims 2-6, 9, 22, 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doolan in view of Cheah et al. of Computer Communications 20 (1997), (title: Design and Implementation of an MMS environment on ISODE) page 1354-1364.(Applicants' IDS).

12. As per claims 2-6, 22, Doolan substantially teaches all the limitations of the claims except an Ethernet network/management. Cheah discloses an Ethernet network and many other features of the claimed invention(see Cheah page 1356-1357). It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated Cheah Ethernet network into Doolan because it would have provided a high performance distributed control.

13. As per claims 9, 30-32, Doolan teaches all the limitations of the claims as mentioned above except time synchronization. Cheah substantially discloses the concept of time synchronization (see Cheah page 1359 col. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated time synchronization into Doolan's because it would have optimized Doolan's system by providing synchronization suitable for distributed control applications.

14. Claims 11- 12, 18, 19-20, 24-26, are rejected under 35 U.S.C. 103(a) as being unpatentable over Doolan in view of Cheah and Kimball et al. ("Kimball") patent No. 5,859,959.

15. As per claims 11-12, 18, 19, 24-26, Doolan and Cheah substantially teach all the limitations of the claims above except redundant plurality of network interfaces and redundancy entity concept. Kimball teaches those features (see abstract; col. 3 lines 45-67). It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated

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the redundancy network concept to Doolan and Cheah because it would allow status inquiries with regard to redundant link while maintaining connection and testing (see Kimball col. 3 lines 20-67).

16.

17. Claims 27-29 are allowed.

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz B. Jean whose telephone number is (703) 305-3970. The examiner can normally be reached on Monday thru Friday from 8:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alam Hosain, can be reached on (703) 308-6662. The fax phone numbers for this Group are (703) 746-7238 for After-Final, (703) 746-7239 for Official, and (703) 746-7240 for Non-Official/Draft.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [**Alam.Hosain@uspto.gov**].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express

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waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

A handwritten signature in black ink, appearing to read "Frantz B. Jean", is written over a horizontal line.

Frantz B. Jean
September 30, 2003
FBJ/

**FRANTZ B. JEAN
PRIMARY EXAMINER**